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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,253	04/01/2004	Julio A. Abusleme	108910-00129	6955

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ARENT FOX LLP
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EXAMINER

ZEMEL, IRINA SOPHIA

ART UNIT	PAPER NUMBER
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1796

NOTIFICATION DATE	DELIVERY MODE
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11/05/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com
IPMatters@arentfox.com
Patent_Mail@arentfox.com

Office Action Summary	Application No. 10/814,253	Applicant(s) ABUSLEME ET AL.	
	Examiner Irina S. Zemel	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7 and 10-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7 and 10-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-5, 7, 10-16 and 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable US Patent publication 20010003124 to Zolotnitsky et al., (hereinafter "Zolotnitsky").

The rejection stands as per reason of record.

It is noted that the amendment to the base claims did not achieve the intended purpose to distinguish the claimed component A over the copolymers disclosed by Zolotnitsky, since the claims still fail to preclude the presence of ANY additional co-monomers so long as 90 of the polymer is CTFE and any amount of the claimed co-monomer is present.

Claim Rejections - 35 USC § 103

Claims 1-5, 7, 10-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zolotnitsky in combination with US Patent 6,107,393 to Abusleme et al., (of record, hereinafter "Abusleme '393").

The rejection stands as per reason of record.

Response to Arguments

Applicant's arguments filed 8-18-2008 have been fully considered but they are not persuasive. The applicants argue the following points:

Art Unit: 1796

Solution of a technical problem, i.e., to find the compositions that can be easily transformed into foamed articles with improved properties. This argument, at best, as previously discussed, is irrelevant to the invention as claimed. The claimed invention is directed to a foamable composition comprising two specified components. The claimed property of the composition being "foamable", as noted in the previous office actions, is just that – the property of the composition, i.e., its ability to be foamed, which in no way implicitly or explicitly requires it to actually be foamed. It is further noted that none of the claims requires it to be foamed as even the claims directed to the articles include molded articles, that are not necessarily foamed.

The applicants further argue that the claimed compositions can be used for certain applications and exhibit good dielectric properties. This argument, again, is directed to something that is not claimed in the claims, as none of the claims claim any properties of the compositions.

The applicants further state that the copolymers disclosed by Zolotnitsky are not component A of the presently claimed invention. Once again, the examiner disagrees. Even as amended, the claimed component A does NOT preclude the presence of any additional comonomers. AGAIN, the claim drafting/interpretation seems to be the problem with this application, since the claimed component A, while does require 90 % of CTFE monomers, is not claimed in such a way as to *preclude* the presence of ANY additional monomers, as long as one of the claimed co-monomers is also present (in

Art Unit: 1796

unspecified amounts, which could be as low as any measurable amounts of those co-monomers).

Insofar as the function of POLYMIST in example 6 of Zolotnitsky, it is noted that its function in the compositions disclosed in the reference is quite irrelevant to the claimed invention (especially the broad claims). The component disclosed in the reference and in the examples of the instant specification is the SAME compound, i.e., fluoropolymer Polymist. The fact that it may not be used in the same capacity or function in the compositions of Zolotnitsy reference as intended in the claimed compositions is quite irrelevant to the patentability of the COMPOSITION as it is claimed. The bottom line, again, is that the base claims of the instant invention (and all of the dependent claims) claim a two components compositions containing components A (which as discussed above reads on the copolymer disclosed in Zolotnitsky) and components B, which is identical to the filler used in Zolotnitsky (i.e., Polymist). Thus, the claimed compositions (which may have an intended use of being foamed), as claimed, is no more than a two components composition identical to the compositions of Zolotnitsky as containing identical components. It is further irrelevant whether Zolotnitsky uses the disclosed compositions as foams or mentions any of the advantages of the foamed compositions – as discussed above and in numerous previous office actions, the claimed compositions is NOT foamed, but rather “foamable”, i.e. has an ability to be foamed. Unless that applicants provide clear and convincing evidence that the compositions disclosed by Zolotnitski CAN NOT be foamed

Art Unit: 1796

(rather than actually being in the foamed form), the arguments that the reference does not disclose foams is not relevant to the claimed compositions.

All other arguments are either repetitive with respect to the physical properties of the final products being the same or different, or have been addressed in the previous office actions.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irina S. Zemel whose telephone number is (571)272-0577. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571)272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1796

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Irina S. Zemel/
Primary Examiner, Art Unit 1796

Irina S. Zemel
Primary Examiner
Art Unit 1796

ISZ